

B. Violation of the Commission's Notice Requirements

As previously discussed, section 284.243(h)(1) requires that notice of a capacity release (at the maximum rate) must be provided on a pipeline's EBB not later than 48 hours after the release transaction commences. In Order No. 636-A, the Commission stated that it "will not tolerate deals undertaken to avoid the notice requirements of the regulations."²¹

With respect to the six transactions identified above, it is not clear whether Consumers disclosed to Panhandle or ANR that the replacement shippers had to share revenue (above the pipelines' maximum tariff rates) with Consumers. If Consumers did fail to notify the pipelines of this condition, the pipelines could not post the condition on their EBBs. Consumers would thus have violated the notice requirement of section 284.243(h)(1).

The Commission Orders

(A) Within 30 days of the issuance of this order, Consumers shall:

(1) File an answer to the allegations of violations that conforms to the requirements of Rule 213 of the Commission's Rules of Practice and Procedure, 18 CFR 385.213 (1997). In its answer, Consumers shall admit or deny, specifically and in detail, each allegation set forth in Part III of this order, and shall set forth every defense relied on. If an allegation is only partially accurate, Consumers shall specify that part of the allegation it admits and that part of the allegation it denies.

(2) Show in this answer why it has not violated sections 4(a), 4(b), and 5(a) of the NGA and section 284.243(h)(1) of the Commission's regulations. In addition, Consumers shall show why it has not violated its blanket certificate issued under section 7 of the NGA and section 284.243(g) of the Commission's regulations.

(3) For the period from January 1, 1996 through the date of its answer to this order, identify each transaction in which Consumers (a) released or is releasing capacity to a replacement shipper and (b) received or will receive any payment or other consideration in excess of the relevant pipeline's applicable maximum tariff rate.

(4) For each of the six release transactions identified by the Michigan AG discussed herein, and for each transaction identified in response to Ordering Paragraph (A)(3):

a. Identify the pipeline, the date(s) of the release and the replacement shipper, and calculate the amount in excess of the pipeline's applicable maximum tariff rate;

b. Provide copies of all documents relating to the release transaction, including the release agreement (with all amendments), all billing statements submitted by Consumers to the replacement shipper, all records of payments or other consideration made by the replacement shipper, and all communications between Consumers and the relevant pipeline, and all communications between Consumers and the replacement shipper, concerning the transaction; and

c. Show why Consumers should not refund to the replacement shipper any payment Consumers received in excess of the relevant pipeline's applicable maximum tariff rate; and

d. If the transaction is ongoing, show why Consumers should not be required to limit its collections of rates or other consideration from the replacement shipper to the pipeline's applicable maximum tariff rate.

(B) Notice of this proceeding will be published in the **Federal Register**. Interested parties will have 20 days from the date of publication of the notice to intervene.

By the Commission.

David P. Boergers,

Acting Secretary.

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER07-4084-001]

Denver City Energy Associates, L.P.; Notice of Filing

March 23, 1998.

Take notice that on February 27, 1998, Denver City Energy Associates, L.P., (DCE), tendered for filing a revised Code of Conduct in compliance with the Federal Energy Regulatory Commission order issued on January 28, 1998 in Docket No. ER97-4084-001.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions and protests should be filed on or before

April 2, 1998. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10624-020]

French Paper Company; Notice Rejecting Request for Rehearing

March 23, 1998.

On February 10, 1998, the Acting Director, Office of Hydropower Licensing, issued an order modifying and approving the fish entrainment study recommendations proposed by French Paper Company, licensee for the French Paper Project No. 10624. 82 FERC ¶ 62,134. On March 12, 1998, the Michigan Department of Natural Resources (Michigan DNR) filed a request for rehearing of this order with the Commission.

Under Section 313(a) of the Federal Power Act, 16 U.S.C. 825j(a), a request for rehearing may be filed only by a party to the proceeding. In order to become a party to any Commission proceeding, an interested person must file a motion to intervene pursuant to Rule 214 of the Rules of Practice and Procedure, 18 CFR 385.214. Michigan DNR's prior intervention in the licensing proceeding for this project does not continue into post-licensing proceedings.¹ Because Michigan DNR did not file a motion to intervene in this post-licensing proceeding, it therefore is not a party. Consequently, its request for rehearing is rejected.

This notice constitutes final agency action. Requests for rehearing by the Commission of this rejection notice must be filed within 30 days of the date of issuance of this notice pursuant to 18 CFR 385.713.

David P. Boergers,

Acting Secretary.

[FR Doc. 98-8011 Filed 3-26-98; 8:45 am]

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²¹ FERC Stats. & Regs., Regs. Preambles 1991-1996 at 30,559.

¹ Kings River Conservation District, 36 FERC ¶ 61,365 (1986).